

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

RAYNERA MROTEK,

Plaintiff,

v.

NELSON, WATSON & ASSOCIATES, LLC,

Defendant.

COMPLAINT FOR DAMAGES AND INJUNCTIVE RELIEF

1. Defendant Nelson, Watson & Associates, LLC, attorney debt collectors, left voicemail messages for Plaintiff Raynera Mrotek without identifying itself and without stating that it was a debt collector. Plaintiff seeks damages under the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 *et seq.* (“FDCPA”), and New Mexico consumer protection law.

Jurisdiction

2. This Court has jurisdiction under the FDCPA, 15 U.S.C. § 1692k(d), and under 28 U.S.C. §§ 1331 & 1337. This Court has supplemental jurisdiction over the state claims pursuant to 28 U.S.C. § 1367.

Parties

3. Plaintiff Raynera Mrotek resides in Ranchos de Taos, New Mexico. She is a “consumer” as defined by the FDCPA, 15 U.S.C. § 1692a(3).
4. Defendant Nelson, Watson & Associates, LLC (“NWA”) is a collection agency, organized under Massachusetts law with its main office in Massachusetts. Its principal business is the collection of consumer debts. It regularly collects or attempts to collect debts owed or due or asserted to be owed or due another. It has been engaged by multiple

creditors to do so. NWA is licensed as a collection agency with the New Mexico Financial Institutions Division. NWA is “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

Facts

5. Ms. Mrotek obtained a credit card from Capital One that, through no fault of her own, she was unable to pay off.
6. Ms. Mrotek used this credit card for personal, family and household purposes.
7. NWA purchased, accepted assignment or obtained the right to collect this Capital One credit card account.
8. In August or September, 2010, NWA left a voicemail message for Ms. Mrotek on the voicemail for her business telephone. NWA did not identify itself in the message, as required by the FDCPA. 15 U.S.C. § 1692d(6). Rather, it stated, in full:

Raynera Mrotek, my name is [undecipherable]. I need you to contact the office today. My direct line is 1 (800) 838-0139, extension 4429. I cannot stress the importance of this call enough. I need you to contact me back today. 1 (800) 838-0139 at extension 4429.
9. In August or September, 2010, NWA left a voicemail message for Ms. Mrotek on the voicemail for her cellular telephone. NWA did not identify itself in the message, as required by the FDCPA. 15 U.S.C. § 1692d(6). Rather, it stated, in full:

Raynera Mrotek, this is Mr. Testaverde calling in regards to a very important matter of your that has recently been forwarded to my office. Judging by the information provided, it is in your best interest to return the call directly upon receipt of this message. I will be here in the office right up until 9 o’ clock p.m. eastern time tonight and I do need you to return the call. Telephone number here is 1 (800) 910-5536. Call it immediately.
10. The telephone number recited in these messages are telephone numbers for NWA.

11. In these messages, NWA did not identify itself as a debt collector nor did NWA state that the communication is an attempt to collect a debt, as required by the FDCPA. 15 U.S.C. § 1692e(11).
12. NWA engages in a pattern and practice of not disclosing its identity and not stating it is a debt collector in its communications with consumer debtors. *See Alonso v. Crowe v. Nelson, Watson & Associates, LLC*, No. 10-CV-23170 (S.D. Fla.); *Johnson v. Nelson, Watson & Associates, LLC*, No. 10-CV-3792 (D. Minn.); *Fillichio v. Nelson, Watson & Associates, LLC*, No. 10-CV-60543 (S.D. Fla.); *Pinchbeck v. Nelson, Watson & Associates, LLC*, No. 7:10-CV-2200 (S.D. N.Y.); *Barthle v. Nelson, Watson & Associates, LLC*, No. 6:09-CV-1714 (M.D. Fla.); *Bushdieker v. Nelson, Watson & Associates, LLC*, No. 4:09-CV-1266 (E.D. Mo.); *Cummings v. Nelson, Watson & Associates, LLC*, No. 1:09-CV-316 (W.D. N.Y.); *Pentcheva v. Nelson, Watson & Associates, LLC*, No. 09-CV-166 (D. Minn.); *Crescenzo v. Nelson, Watson & Associates, LLC*, No. 08-CV-61900 (S.D. Fla.); *Michailiuk v. Nelson, Watson & Associates, LLC*, No. 08-CV-61612 (S.D. Fla.); *Anderson v. Nelson, Watson & Associates, LLC*, No. 2:08-CV-3633 (E.D. N.Y.); *Crowe v. Nelson, Watson & Associates, LLC*, No. 2:08-CV-159 (N.D. Ga.); *Shoults v. Nelson, Watson & Associates, LLC*, No. 1:08-CV-2196 (N.D. Ga.); *Beringer v. Nelson, Watson & Associates, LLC*, No. 1:08-CV-1787 (N.D. Ga.); *LeBlanc v. Nelson, Watson & Associates, LLC*, No. 2:08-CV-12105 (E.D. Mich.); *Santos v. Nelson, Watson & Associates, LLC*, No. 4:08-CV-58 (N.D. Ga.); *Hawthorne v. Nelson, Watson & Associates, LLC*, No. 2:08-CV-280 (W.D. Penn.); *Valencia v. Nelson, Watson & Associates, LLC*, No. 07-CV-61088 (S.D. Fla.).

First Claim for Relief: Violations of the FDCPA

13. NWA's actions violate the FDCPA, including but not limited to 15 U.S.C. § 1692d(6) and § 1692e(11) .
14. Ms. Mrotek is entitled to recover statutory damages and reasonable attorney fees and costs.

Second Claim for Relief: Violations of the New Mexico Unfair Practices Act

15. NWA's actions constitute unfair or deceptive trade practices within the meaning of the New Mexico Unfair Practices Act ("UPA"), as defined by NMSA 1978 § 57-12-2(D) generally and NMSA 1978 § 57-12-2(D)(14) and (15) specifically.
16. NWA willfully engages in these unlawful trade practices.
17. Ms. Mrotek is entitled to recover statutory damages, trebled, plus reasonable attorney fees and costs.
18. Ms. Mrotek is also entitled to state-wide prospective injunctive relief.

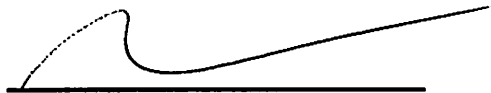
Request for Relief

Ms. Mrotek requests that this Court:

- A. Enjoin NWA from not disclosing its identity and not stating it is a debt collector in its communications with consumer debtors with telephone numbers that have area codes 505 or 575;
- B. Award statutory damages, for violations of the FDCPA;
- C. Award statutory damages, trebled, for violations of UPA;
- D. Award reasonable attorney fees and costs; and
- E. Award such other relief as the Court deems just and proper.

Respectfully submitted,

TREINEN LAW OFFICE

A handwritten signature in black ink, appearing to read 'Rob Treinen', is written over a solid horizontal line.

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